

amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations

and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed States regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be

implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining.

Dated: August 5, 1997.

Richard J. Seibel,
Regional Director, Western Regional
Coordinating Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 934.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments.

* * * * *

Original amendment sub- mission date	Date of final publication	Citation/description
*	*	*
May 2, 1997	August 25, 1997	NDCC 38-14.1-04.1, .2, .3

[FR Doc. 97-22416 Filed 8-22-97; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 51

[FRL-5880-9]

RIN 2060-AG70

Air Quality: Revision to Definition of
Volatile Organic Compounds—
Exclusion of 16 Compounds

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for any Federal implementation plan (FIP) for an ozone nonattainment area. This revision would add 16 compounds (shown in Table 2) to the list of compounds excluded from the definition of VOC on the basis that these compounds have negligible contribution to tropospheric ozone formation. These compounds have potential for use as refrigerants, aerosol propellants, fire extinguishants, blowing agents and solvents.

DATES: This rule is effective September 24, 1997.

ADDRESSES: The EPA has established a public docket for this action, A-96-36, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (MD-15), Research Triangle Park, NC 27711, phone (919) 541-5245.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated by

this action are those which use and emit VOC and States which have programs to control VOC emissions.

Category	Examples of regulated entities
Industry	Industries that use refrigerants, blowing agents, or solvents.
States	States which have regulations to control volatile organic compounds.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Background

On September 25, 1995, the Alliance for Responsible Atmospheric Policy (Alliance) submitted a petition to the EPA which requested that the compounds shown in Table 1 be added to the list of compounds which are considered to be negligibly reactive in the definition of VOC at 40 CFR 51.100(s). (The original petition also included five other compounds (CFC-111, CFC-112, CFC-112A, CFC-113a, and CFC-114a) not shown in Table 1, but the petitioner later requested that these compounds be removed from consideration.)

Potential uses for these compounds are also shown in Table 1. Blowing agent refers to products used in the manufacture of foamed plastic. The compounds for which no use is shown have no currently recognized commercial end-use. However, they may be either intermediates or

unintentional byproducts resulting from the manufacture of other compounds.

TABLE 1.—COMPOUNDS PETITIONED FOR VOC EXCLUSION

[Along with potential uses of compounds]

Compound	Potential use
HFC-32	Refrigerant.
HFC-161	Aerosol propellant, blowing agent.
HFC-236fa	Fire extinguishant, refrigerant.
HFC-245ca	Refrigerant, blowing agent.
HFC-245eb	Refrigerant, blowing agent.
HFC-245fa	Refrigerant, blowing agent.
HFC-245ea	Solvent.
HFC-236ea	Refrigerant, blowing agent.
HFC-365mfc	Blowing agent.
HCFC-31	
HCFC-150a	
HCFC-151a	
HCFC-123a	Blowing agent.
C ₄ F ₉ OCH ₃	Solvent.
(CF ₃) ₂ CFCF ₂ OCH ₃	Solvent.
C ₄ F ₉ OC ₂ H ₅	Solvent.
(CF ₃) ₂ CFCF ₂ OC ₂ H ₅ ...	Solvent.

In support of the petitions, the Alliance supplied information on the photochemical reactivity of the individual compounds. This information consisted mainly of the rate constant for the reaction of the compound with the hydroxyl (OH) radical. This rate constant (k_{OH} value) is commonly used as one measure of the photochemical reactivity of compounds. The petitioner compared the rate constants with that of ethane which has already been listed as photochemically negligibly reactive (ethane is the compound with the highest k_{OH} value which is currently regarded as negligibly reactive). The scientific information which the petitioner has submitted in support of the petition has been added to the docket for this

rulemaking. This information includes references for the journal articles where the rate constant values are published.

For the petition submitted by the Alliance, the existing data support that the reactivities of the compounds submitted (except for HCFC-150a), with respect to reaction with OH radicals in the atmosphere, are substantially lower than that of ethane. Based on the information submitted with the petition, EPA proposed on March 17, 1997 (62 FR 12583) to add the 16 compounds shown in Table 2 below to the list of negligibly reactive compounds in EPA's definition of VOC found in 40 CFR 51.100(s). One of the compounds in the petition (HCFC-150a) was not proposed for exemption since EPA thought that the supporting information did not justify a "negligibly reactive" rating at this time.

II. Comments on the Proposal and EPA Response

The EPA received written comments on the proposal from four organizations. The comments were from the petitioner and three manufacturing companies. All four comment letters supported the exclusion of the 16 compounds as VOC. Copies of these comments have been added to the docket (A-96-36) for this action.

In the proposal for today's action, EPA indicated that interested persons could request that EPA hold a public hearing on the proposed action (see section 307(d)(5)(ii) of the Act). During the comment period, no one requested a public hearing so none was held.

Based on the information presented in the proposal notice and on the comments received during the public comment period, EPA has decided to list the compounds in Table 2 as negligibly reactive.

TABLE 2.—COMPOUNDS ADDED TO THE LIST OF NEGLIGIBLY REACTIVE COMPOUNDS

Compound	Chemical name
HFC-32	difluoromethane.
HFC-161	ethylfluoride.
HFC-236fa	1,1,1,3,3,3-hexafluoropropane.
HFC-245ca	1,1,2,2,3-pentafluoropropane.
HFC-245ea	1,1,2,3,3-pentafluoropropane.
HFC-245eb	1,1,1,2,3-pentafluoropropane.
HFC-245fa	1,1,1,3,3-pentafluoropropane.
HFC-236ea	1,1,1,2,3,3-hexafluoropropane.
HFC-365mfc	1,1,1,3,3-pentafluorobutane.
HCFC-31	chlorofluoromethane.
HCFC-123a	1,2-dichloro-1,1,2-trifluoroethane.
HCFC-151a	1-chloro-1-fluoroethane.
C ₄ F ₉ OCH ₃	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane.
(CF ₃) ₂ CFCF ₂ OCH ₃	2-(difluoromethoxymethyl)-1,1,1,2,2,3,3,3-heptafluoropropane.
C ₄ F ₉ OC ₂ H ₅	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane.

TABLE 2.—COMPOUNDS ADDED TO THE LIST OF NEGLIGIBLY REACTIVE COMPOUNDS—Continued

Compound	Chemical name
(CF ₃) ₂ CFCF ₂ OC ₂ H ₅	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane.

Table 3 gives Chemical Abstract Service (CAS) numbers for the compounds in Table 2.

TABLE 3.—CHEMICAL ABSTRACT SERVICE (CAS) NUMBERS FOR COMPOUNDS

Compound	CAS number
HFC-32	75-10-5
HFC-161	353-36-6
HFC-236fa	690-39-1
HFC-245ca	679-86-7
HFC-245ea	24270-66-4
HFC-245eb	431-31-2
HFC-245fa	460-73-1
HFC-236ea	431-63-0
HFC-365mfc	406-58-6
HCFC-31	593-70-4
HCFC-123a	354-23-4
HCFC-151a	1615-75-4
C ₄ F ₉ OCH ₃	163702-07-6
(CF ₃) ₂ CFCF ₂ OCH ₃	163702-08-7
C ₄ F ₉ OC ₂ H ₅	163702-05-4
(CF ₃) ₂ CFCF ₂ OC ₂ H ₅	163702-06-5

III. Final Action

Today's action is based on EPA's review of the material in Docket No. A-96-36. The EPA hereby amends its definition of VOC at 40 CFR 51.100(s) to exclude the compounds in Table 2 as VOC for ozone SIP's and ozone control strategies for purposes of attaining the ozone NAAQS. The revised definition will also apply for purposes of any FIP's for ozone nonattainment areas (e.g. 40 CFR 52.741(a)(3)). States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and may not take credit for controlling these compounds in their ozone control strategy.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file for all information submitted or otherwise considered by EPA in the development of this rulemaking. The principle purposes of the docket are: (1) To allow interested

parties to identify and locate documents so that they can effectively participate in the rulemaking process; and, (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A)).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines "significant regulatory action" as one is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not "significant" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

C. Unfunded Mandates Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgation of an EPA rule for which

a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objective of the rule, unless EPA publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments including tribal governments, it must have developed under section 203 of the UMRA a small government plan which informs, educates and advises small governments on compliance with the regulatory requirements. Finally, section 204 provides that for any proposed or final rule that imposes a mandate on a State, local or tribal government of \$100 million or more annually, the Agency must provide an opportunity for such governmental entities to provide input in development of the proposed rule.

Since today's rulemaking is deregulatory in nature and does not impose any mandate on governmental entities or the private sector, EPA has determined that sections 202, 203, 204 and 205 of the UMRA do not apply to this action.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where the regulation would impose a substantial impact on a significant number of small entities. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted. Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that this rule will not have an impact on small entities because no additional costs will be incurred.

E. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory

Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 18, 1997.

Carol M. Browner,
Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 is revised to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 51.100 is amended by revising paragraph (s) introductory text and paragraph (s)(1) to read as follows:

§ 51.100 Definitions.

(s) *Volatile organic compounds (VOC)* means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro-2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro-1-fluoroethane (HCFC–141b); 1-chloro-1,1-difluoroethane (HCFC–142b); 2-chloro-

1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTf); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC–43–10mee); difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropropane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,2,3-pentafluoropropane (HFC–245eb); 1,1,1,3,3-pentafluoropropane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1-chloro-1-fluoroethane (HCFC–151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅); and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

* * * * *

[FR Doc. 97–22510 Filed 8–22–97; 8:45 am]
BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH104–1A; FRL–5877–9]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving through "direct final" procedure, a June 10, 1997, request from Ohio, for State Implementation Plan (SIP) maintenance plan revisions for the following areas: Toledo area (including Lucas and Wood counties), the Cleveland-Akron-Lorain area (including Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage counties), and the Dayton-Springfield area (including Montgomery, Clark, Greene, and Miami counties). The maintenance plan revisions are allocating to the mobile source emission budget for transportation conformity a portion of the existing "Safety Margins." The safety margin is the difference between the attainment inventory level of the total emissions and the projected levels of the total emissions in the final year of the maintenance plan.

DATES: This "direct final" rule is effective on October 24, 1997, unless USEPA receives significant written adverse or critical comments (which have not already been addressed) by September 24, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Please contact Scott Hamilton at (312) 353–4775 before visiting the Region 5 office.

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Scott Hamilton, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4775.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act in section 176(c) requires conformity of activities to an implementation plan's purpose of attaining and maintaining the National ambient air quality standards. On November 24, 1993, the USEPA promulgated a final rule establishing criteria and procedures for determining

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 51**

[FRL-5992-4]

RIN 2060-AH27

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of Methyl Acetate**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This action revises EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for any Federal implementation plan (FIP) for an ozone nonattainment area. This revision adds methyl acetate to the list of compounds excluded from the definition of VOC on the basis that this compound has negligible contribution to tropospheric ozone formation. This compound has potential for use as a solvent in paints, inks and adhesives.

DATES: This rule is effective May 11, 1998.

ADDRESSES: The EPA has established a public docket for this action, A-97-32, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (6102), 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (MD-15), Research Triangle Park, NC 27711, phone (919) 541-5245.

SUPPLEMENTARY INFORMATION:**Regulated entities**

Entities potentially regulated by this action are those which use and emit VOC and States which have programs to control VOC emissions.

Category	Examples of regulated entities
Industry	Industries that manufacture and use paints, inks and adhesives.
States	States which have regulations to control volatile organic compounds.

This table is not intended to be exhaustive, but rather provides a guide

for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Background

On July 30, 1996, Eastman Chemical Company submitted a petition to the EPA which requested that methyl acetate be added to the list of compounds which are considered to be negligibly reactive in the definition of VOC at 40 CFR 51.100(s). The petitioner based the request on a comparison of the reactivity of methyl acetate to that of ethane which has been listed since 1977 as having negligible reactivity. In a number of cases in the past, EPA has accepted compounds with lower reactivity than ethane as negligibly reactive (see, e.g., 61 FR 4588 (February 7, 1996), 61 FR 52848 (October 8, 1996), and 62 FR 44900 (August 25, 1997)).

As indicated in the proposal, a study was performed comparing the reactivity of methyl acetate to ethane on a "per gram" basis. The EPA also calculated the results of this study on a "per mole" basis.¹ Under both sets of tests, the reactivity of methyl acetate was comparable to or less than that for ethane. Based on these results, EPA concluded that existing scientific evidence does not support a methyl acetate reactivity higher than that of ethane. Therefore, EPA proposed on August 25, 1997 (62 FR 44926) to add methyl acetate to the list of negligibly reactive compounds in EPA's definition of VOC found in 40 CFR 51.100(s). The proposal provided for a 30-day public comment period.

II. Comments on the Proposal and EPA Response

In the proposal for today's action, EPA indicated that interested persons

¹ The EPA has evaluated most VOC exemption considerations in the past using K_{OH} values expressed in units of $\text{cm}^3 \text{ molecule}^{-1} \text{ sec}^{-1}$ which is consistent with a per mole basis. However, in one recent case, EPA examined a reactivity petition solely on a weight or "per gram" basis (60 FR 31633 (June 16, 1995) (exempting acetone from the definition of VOC)). The use of a reactivity per mole basis is a more strict basis for comparison to the reactivity of ethane for compounds whose molecular weight is greater than ethane. Given the relatively low molecular weight of ethane, use of the per gram basis tends to result in more compounds falling into the "negligibly reactive" class. Because methyl acetate is less reactive than ethane based on a per mole basis, EPA is not addressing today whether it should continue to exempt compounds based on a per gram basis.

could request that EPA hold a public hearing on the proposed action (see section 307(d)(5)(ii) of the Act). There were no requests for a public hearing.

The EPA received written comments on the proposal from four organizations. The comments were from the petitioner, one industry trade association, and two manufacturing companies. Two commenters supported the action, one opposed the action, and one commenter raised the issue of banked credits for previous reductions in methyl acetate. Copies of these comments have been added to the docket (A-97-32) for this action. Substantial comments and EPA's responses are listed below.

Comment: One commenter found the proposed exclusion troubling as they understood that EPA is reconsidering the method for determining photochemical reactivity of VOC and the baseline used to determine negligible reactivity.

Response: The EPA is beginning a process of evaluating its reactivity policy in view of scientific information which has been gained since 1977 when the VOC policy was first published. This evaluation process, which will involve model development, modeling studies and collection of new information, is expected to take several years. However, the EPA has decided to proceed with approving the methyl acetate petition now even though the Agency is anticipating a review of its reactivity policy. Methyl acetate shows reactivity comparable to ethane on a per mole basis. There is currently no valid scientific support for not exempting this compound at this time, and the commenter has not provided the Agency with an adequate scientific basis for not exempting methyl acetate.

Comment: One commenter stated that fundamental organic photochemistry and oxidation chemistry imply that methyl acetate will contribute to the photochemical generation of ozone in the troposphere. Specifically, the photolysis of methyl acetate caused by the light absorption at wavelengths up to about 230 nanometers (nm) would result in the production of radicals and should be an efficient photochemical process. The commenter further states that methyl acetate may absorb energy and transfer this energy to other molecules to form radicals.

Response: The commenter's claim that methyl acetate participates in atmospheric photochemical reactions by virtue of light absorption at wavelengths up to about 230 nm and photolysis into free radicals is contrary to current understanding of photolytic processes occurring in the atmosphere. Specifically, the photolytic activity

attributed by the commenter to methyl acetate can occur outside but not inside the troposphere. It is a well known fact that, inside the troposphere, photolysis of chemical compounds is restricted to the wavelength region above 290 nm. Furthermore, the study of methyl acetate by Dr. William P.L. Carter of the University of California at Riverside, which was submitted with the petition, did not result in evidence of any effects due to photolysis. Finally, Dr. Carter's results and conclusion were supported by smog chamber data obtained by a competent experimentalist, and were agreed with by a reactivity expert peer reviewer. Such experimental and peer review support of a reactivity measurement are accepted by the reactivity scientific community as being reliable, and, therefore, justify EPA's decision to accept the measurement result.

Comment: A commenter stated that ethane is unreactive in radical reactions, that ethane is not usually used in chemical feedstocks, and that methyl acetate is easily destroyed using catalytic oxidation, while ethane is not.

Response: The evidence for methyl acetate's low reactivity reported in Dr. Carter's study indicates that the items in this comment are not significant when comparing the photochemical reactivity of methyl acetate to that of ethane.

Comment: One commenter expressed concern that the exclusion of methyl acetate as a VOC will have a deleterious effect on netting, offsetting and trading of existing emissions reduction "credits" at their facilities that have already made substantial reductions in methyl acetate emissions over the past few years. At the time they made the reductions, they did so with the understanding that they could be applied to future expansions at their facilities or could be used for trading and/or offsetting. They are concerned that EPA's proposal might be interpreted as obviating these emissions credits.

Response: This is an important concern, but it should not determine whether a compound, such as methyl acetate, is recognized as being negligibly reactive. This decision should rest only on the scientific evidence of the photochemical reactivity of the compound. How to treat banked credits of a compound that has subsequently been determined to be negligibly reactive and not to be counted toward VOC reductions in the future is an issue that transcends this methyl acetate action alone. The EPA's current policy is to allow States to decide how they will handle situations within their jurisdictions in a case-by-case manner.

III. Final Action

Today's action is based on EPA's review of the material in Docket No. A-97-32. The EPA hereby amends its definition of VOC at 40 CFR 51.100(s) to exclude methyl acetate as a VOC for ozone SIP and ozone control for purposes of attaining the ozone national ambient air quality standard. The revised definition also applies for purposes of any Federal implementation plan for ozone nonattainment areas (e.g., 40 CFR 52.741(a)(3)). States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and should not take credit for controlling these compounds in their ozone control strategy. EPA, however, urges States to continue to inventory the emissions of methyl acetate for use in photochemical modeling to assure that such emissions are not having a significant effect on ambient ozone levels.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file for all information submitted or otherwise considered by EPA in the development of this rulemaking. The principle purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and, (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A)).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not "significant" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

C. Unfunded Mandates Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgation of an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objective of the rule, unless EPA publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments including tribal governments, it must have developed under section 203 of the UMRA a small government plan which informs, educates and advises small governments on compliance with the regulatory requirements. Finally, section 204 provides that for any proposed or final rule that imposes a mandate on a State, local or tribal government of \$100 million or more annually, the Agency must provide an opportunity for such governmental entities to provide input in development of the rule.

Since today's rulemaking is deregulatory in nature and does not impose any mandate on governmental entities or the private sector, EPA has determined that sections 202, 203, 204 and 205 of the UMRA do not apply to this action.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse economic impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where the regulation would impose a substantial economic impact on a significant number of small entities. The RFA analysis is for the purpose of determining the economic impact imposed by the terms of the regulation being adopted. Because this rule is deregulatory in nature, no economic impacts are imposed by its terms. Therefore, because this rulemaking imposes no adverse economic impacts within the meaning of the RFA, an analysis has not been conducted. Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant impact on a substantial number of small entities because no additional costs will be incurred.

E. Paperwork Reduction Act

This rule does not change any information collection requirements subject to OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 1, 1998.

Carol M. Browner,
Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401-7641q.

2. Section 51.100 is amended by republishing (s) introductory text and revising paragraph (s)(1) to read as follows:

§ 51.100 Definitions.

* * * * *

(s) *Volatile organic compounds (VOC)* means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTf); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-

dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅); methyl acetate and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

* * * * *

[FR Doc. 98-9247 Filed 4-8-98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 76**

[CS Docket No. 96-56; FCC 98-47]

Cable Television Antitrafficking, Network Television, and MMDS/SMATV Cross Ownership

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission has denied a petition for reconsideration concerning its rules on television broadcast station network and cable television system cross ownership. On March 15, 1996, the Commission deleted the broadcast network/cable television ownership rule in order to conform the rules with statutory changes. In response to this decision, a petition for reconsideration was filed contending that the Commission was obligated to provide notice and an opportunity to participate in the rulemaking proceeding. In responding to this reconsideration petition, the Commission determined that because the rule changes merely conformed the rules to the statute, notice requirements did not apply.

FOR FURTHER INFORMATION CONTACT: Nancy Stevenson, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order on